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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 UNITED STATES OF AMERICA,

12 Plaintiff,

Cr. S-99-225 DFL

13 v .

14 MARTEL VARGAS ALEMAN,

15 Defendant.

ORDER

16 _____/
17 On April 13, 2000, defendant Martel Vargas Aleman pleaded
18 guilty to possessing methamphetamine with intent to distribute.
19 As part of the plea agreement, he waived his rights to appeal and
20 to collaterally attack his sentence.


21 On March 18, 2006, defendant filed this motion under 28
22 U.S.C. § 2255 to reduce his sentence. The motion is defective in
23 many respects: It violates the waiver; it does not allege any
24 constitutional or other defect in the sentence; it is untimely;
25 and the court lacks jurisdiction to reduce defendant's sentence.
26 Defendant is of the mistaken belief that the court retains the

1 authority to impose a lesser sentence in light of defendant's
2 stated intention to return to Mexico when released. But the
3 court has no such authority.

4 Because this motion is misguided and without merit, the
5 government suggests that defendant should be given the
6 opportunity to withdraw it. Otherwise defendant's ability to
7 seek relief in the future on some other theory could be impaired
8 because that future motion could be viewed as successive. The
9 court agrees. Accordingly, defendant shall have 30 days from the
10 date of this order to request withdrawal of this motion. If he
11 chooses not to do so, the court will dismiss this motion for the
12 reasons stated above.

13 IT IS SO ORDERED.

14 Dated: 8/3/2006

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18 DAVID F. LEVI
19 United States District Judge
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